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7 June 1978

OLC #78-220211

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NOTE FOR:



Attached are two first drafts of responses to the letter from GAO which I sent to you recently. One draft goes into some detail to explain why we want CIARDS separate; the other draft recognizes the difficulty of responding point for point, registers our opposition and proposes a meeting at which we can discuss the matter in detail.

Will you please review the drafts and prepare your comments and suggestions for discussion at a meeting on Friday, 9 June 1978, at 10:00 a.m. in room 5E62, headquarters? The deadline for a finished draft to DDA is 19 June.



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**DRAFT**

Mr. H. L. Kreiger, Director  
Federal Personnel and Compensation Division  
General Accounting Office  
Washington, D.C. 20548

Dear Mr. Kreiger:

This is in response to Mr. J. K. Fasick's letter of 24 May 1978 requesting our comments on your proposed report as to the desirability of establishing a single retirement system for all Federal personnel.

We do not concur in the conclusion that the CIA retirement program should be included in one consolidated system. ~~Without commenting on the merits of such a proposal, we~~ consider that the security and Agency management factors require that the CIA program remain under Agency control as a separate statutory system.

*we are enclosing a copy of the statement by Mr. Blake, DDA before the H-PSCI and a statement which comments on the draft report.*

The justification for maintaining CIARDS was spelled out in detail in the Agency's response to Mr. Shelton's letter which initiated GAO's review. A copy of our response is enclosed. *(Attached #1)* Unfortunately, your draft report does not include most of the rationale supporting our position. As a result, recipients of the report within the Congress would be given a one-sided view supporting your conclusion for one retirement system with little insight into the Agency's position to allow an objective appraisal of the proposal as it concerns CIA.

To present a balanced report, we feel it only fair and necessary that the detailed rationale supporting CIA's position, as set forth in the enclosure, be included in the section of the report on CIARDS. Also, there are a number of comments in the report on aspects of our program attributed to CIA "officials" which do not accurately reflect the Agency's position. We have not been able to determine the source or sources of the comments from within the Agency and would appreciate your assistance in this regard in order to correct the record.

Since our comments are extensive, a representative of our Office of Personnel *is prepared to meet again with* ~~will contact~~ Mr. Shelton ~~directly to arrange~~ ~~a meeting~~ to discuss appropriate revisions of the report to satisfy our concerns. *Your suggested revisions are not acceptable*

Yours sincerely,

STANSFIELD TURNER

Enclosure

Mr. H. L. Krieger  
Director, Federal Personnel and  
Compensation Division  
U. S. General Accounting Office  
Room 4001  
441 'G' Street, N. W.  
Washington, D. C. 20548

Dear Mr. Krieger,

The comments expressed herein are submitted at the invitation of Mr. J. K. Fasick, ~~extended~~ <sup>extended</sup> offered in his letter of 24 May 1978 which transmitted a draft of the GAO report concerning the desirability of a single Federal retirement system. ~~Our~~ <sup>these</sup> comments are directed to presenting ~~our~~ opposition to the elimination of the CIA Retirement System and to the correction of errors of substance in the draft report.

At the beginning of Chapter 4 of ~~your~~ <sup>the</sup> report, it is stated that Federal retirement systems have evolved without policy guidance, and ~~elsewhere~~ <sup>later</sup> the statement is made that they developed piecemeal. In the second paragraph of Chapter I it is reported that a retirement system is basically a program for providing a pension to retired employees for life, and elsewhere the report indicates that whatever reasons were accepted originally for establishing separate systems are not valid today. We should like to register views in opposition to these observations as they might be intended to apply to the CIA Retirement and Disability System (CIARDS).

We cannot agree that CIARDS was developed without policy guidance; certainly the legislative history of the System indicates that the Congress acted consciously and in full appreciation of what the Agency represented as the need for a separate retirement system for the management of a pool of manpower unique in the United States Government; unique as to duties,

conditions of work, utilization and as regards ~~to~~ security factors not found elsewhere in Federal employment. The two statutory criteria governing the use of CIARDS certainly reflect that this System was not intended for normal Government employment. For further realization of the fact that CIARDS was developed only after very close and conscious policy guidance, one need only to consider that the statute creating CIARDS required that the internal Agency regulations governing the practical administration of the System be cleared with the ranking members of both the House and Senate Committees and, further, that a quota was set for the number of retirements that could be possible under the System. These very real expressions of purpose and control do not describe an absence of policy guidance, they are emphatic evidence that CIARDS in fact enjoyed such direction. (The fact that CIA has never had difficulty in effecting retirements within the quota speaks more to the efficacy of our management practices than is suggested by the comment in the report on page 155.) Policy guidance of CIARDS is again evidenced by the requirement (established in 1976) that an annual report on the administration of CIARDS be presented <sup>overigab</sup> to our committee in the House. In October 1977, a sub-committee of the House Permanent Select Committee on Intelligence conducted a full-scale review of CIARDS, requiring oral testimony and written replies to several scores of questions. Thus, ~~it would appear that interest in~~ policy guidance is being continued at a very responsible level <sup>by the Congress</sup> ~~outside the Agency~~.

We take exception to the view that a retirement system is "basically a program for providing a pension to retired employees." The representations made by the Agency to the Congress in support of establishing CIARDS show that the Agency wanted CIARDS as a management tool for the management of the operational cadre, to keep it vigorous and resilient, and as a secure means

for administering retirement benefits for persons who can <sup>not</sup> admit to ~~no~~ <sup>any</sup> affiliation with CIA, or even <sup>with</sup> ~~to~~ the United States Government. It was only after the statement of these primary purposes of CIARDS that there followed the requirement for a rate of annuity that would recompense members of the operational cadre for the unique services which they rendered their country. These representations, in evidence in the legislative history, were most recently expressed on 13 October 1977 when the Acting Deputy Director of Central Intelligence testified before a subcommittee of the House Permanent Select Committee on Intelligence. Rather than repeat those views in this letter, we are enclosing a copy of the statement of the Acting Deputy Director on that date. We are confident that you will find this statement to be highly informative and concise, and a valuable supplement to the information furnished to Mr. Robert Shelton in our letter of 9 March 1977.

You will see from reading the statement of 13 October 1977, as well as of the material furnished in 1976 to Mr. Shelton, that we emphasized the primacy of CIARDS as a management tool for the effective administration of the operational cadre. In both documents we pointed out the unique structures of career services through which personnel administration is effected within CIA and the fact that CIARDS is intimately intermeshed into the management context of CIA personnel administration. CIARDS is a vital element in our management context, and to divorce the two would cause irreparable damage. We need to comment further on the matter of the intermeshing of a retirement system with the management context in which it is to play an effective role.

In 1965, just as the Agency was <sup>implementing</sup> ~~installing~~ CIARDS within the Agency, a White House Cabinet Committee was appointed to examine all Federal retire-

ment systems. That Committee devoted some of its time to considering the merger of other separate systems with the Civil Service Retirement System which, in its view, would contribute to better and more economical administration, maximum across-the-board consistency and better coordination with other fringe benefits (the same aims as reflected in your proposed report). While all these seemed to the Committee to constitute a laudable goal, the Committee did, however, recognize that the management contexts within which retirement systems operate do differ. Hence, the Committee acknowledged the vastly different organizational structures of the military services and The Foreign Service and concluded that:

'MSR (Military Services Retirement) and FSR (Foreign Service Retirement) are management oriented to a greater degree than is CSR (Civil Service Retirement). Both are closely coordinated with their respective personnel systems to facilitate the retention and promotion of the most able and to separate or retire the least able as well as those no longer able to fully meet requirements of the service. The close coordination between these retirement systems and their respective personnel systems is a basic reason for their continued separate existence'.

We believe that CIARDS is even more unique among Federal retirement

systems than are the systems for the military and The Foreign Service.

We know of no compelling considerations that ~~would have caused you to~~ *change the validity of*  
~~dismiss~~ the views expressed by the Cabinet Committee; we know of no develop-  
ments in the intervening years that would have negated the reasoned con-  
clusions reached by the Cabinet Committee then.

The last sentence on page v *draft* of the report states that "...we found  
no justification for granting preferential benefits to certain groups merely  
because of the type of work performed;" and on page vi the penultimate  
sentence reflects the understanding that CIARDS covers "positions." It  
*appears* ~~seems to us~~ that this language might reflect ~~an~~ <sup>in</sup> sufficient understanding of  
CIARDS and the context in which it operates. CIARDS does not cover "positions",  
and the benefits are not premised merely on the ~~type of work performed.~~ *positions occupied.*  
CIARDS is allied to a dynamic setting, it covers "certain employees" rather  
than "positions" and is more related to the whole context of the careers  
and service of these "certain employees" ~~than merely to the work performed.~~



*The draft*  
The second paragraph of Chapter 2 of ~~your~~ report contains these two sentences: "Because retirement is an integral part of employee compensation, differing benefit provisions mean differing rates of compensation for employees who may be performing similar or equivalent functions and who are otherwise paid the same. In our opinion, the same provisions should apply to all Federal personnel unless there are compelling reasons to the contrary, and this criterion was used as the basis for our evaluation". To this, we must respond that the Congress obviously appreciated that certain employees of CIA served careers that were quite different from normal Government employment; these employees are performing in careers that are not "similar or equivalent" to normal Government employment. The conclusion of the Congress found expression in these two statutory criteria for coverage under CIARDS:

1. In support of Agency activities abroad hazardous to life or health, or
2. So specialized because of security requirements as to be clearly distinguishable from normal Government employment.

We submit, therefore, that the benefits structure is premised on the recognition of the uniqueness of service of the type covered by these two criteria. These criteria define rather conclusively that the certain employees are not performing functions that are "similar or equivalent" to those performed by other Federal civilian personnel, and we believe this fact offers you "compelling reasons" for accepting the uniqueness of CIARDS.

*submitted to*  
We should like to make the observation at this point that there are very definite criteria to be satisfied for eligibility for participation in CIARDS. The statutory criteria just cited have been implemented by four internal administrative criteria which are included in the Agency regulation on CIARDS. The regulation, and of course the internal criteria, have been ~~approved by~~ the Congress. For your information, a copy of these criteria is attached to your copy of the statement made by the Acting Deputy Director to our Congressional Committee on 13 October 1977. While, as you observe in your report, criteria for participation in Federal retirement systems are lacking, you will appreciate that this is not the case with CIARDS. ~~Not only are there definite criteria (which are the subject of Congress) but they are criteria that could not possibly apply to other Federal civilian employees.~~

These are employees who make themselves available for service any place in the world as the needs of the Agency dictate; all of them serve under "covers" that usually require them to perform two jobs, their CIA job and the cover job and, at the same time, protect the integrity of their cover and the organization that provides the cover; these are pressing responsibilities. Often their service involves major disruption to personal convenience and family life; and the employees are always targets for opposition intelligence services and oftentimes the objects of hostile action from opposition services and terrorist groups. The strains caused by prolonged periods of such service ~~eventually~~ <sup>often</sup> diminish the vigor and resiliency of many of these employees; this result, ~~and~~ <sup>AND</sup> eventual erosion of their cover, serve to limit their usefulness to the Agency. The slightly higher annuity rate and the earlier age for voluntary retirement have been established as humane recompense for employees who have thus served their country. To view ~~merely~~ the work performed is to attempt to make comparison with normal civil service-type work performed in the domestic safety of our own country; this would ignore completely the vastly differing contexts within which the work is performed. We hold strongly to the view that it is the totality of the nature of working careers of the operational cadre that argues for CIARDS rather than just the specific <sup>WORK</sup> ~~tasks~~ they perform.

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While we are sympathetic to your interest in promoting efficiency by proposing a single retirement system, we feel compelled to observe that our experience leads us to conclude that efficiency in our operational activities is promoted in no small measure by an esprit de corps that has developed in the operational cadre and that the special identification that participation in CIARDS carries in an important ingredient in promoting

such esprit. CIARDS has been in existence for 13 years, and over that time the distinction of being approved for membership in the System has increasingly become regarded as a special form of recognition. In the materials which we sent to Mr. Shelton in March 1977 we related the opinion of the Deputy Director for Operations in regard to the idea of eliminating CIARDS as a separate system. We repeat his comments: "The effect of this move on morale within the DDO would be disastrous and, taken with other difficulties would, in my opinion, seriously degrade the calibre of the morale of the people we could hire and/or retain in the Operations Directorate." We most emphatically reaffirm those observations today. Although morale is an intangible factor we prize it highly and propose to promote and maintain it, and we regard CIARDS as an extremely valuable means for achieving that end. We regard this as an extremely important in the careers of the operational cadre and, in the last analysis, in the accomplishment of national intelligence objectives.

On page 156 of your report it is stated that the Agency viewed the loss of administrative responsibilities for covered employees (resulting from merger of CIARDS with other retirement systems) as an infringement of the statutory responsibility of the Director to protect intelligence sources and methods. We think that statement does not describe accurately our concern. We refer you to pages 7, 12, and 13 of the statement made on 13 October 1977 by the Acting Deputy Director to the Congressional subcommittee. The passages on those pages provide a good description of what our concern is in this important area, and make clear that we are concerned with considerations much more vitally important than can be ~~CONVEYED~~ <sup>by</sup> ~~appreciated from~~ the description "administrative responsibilities."

I hope that these remarks have highlighted that CIARDS is a special retirement system designed to fit uniquely with the Agency management structure and the security practices<sup>designed</sup> for the protection of intelligence sources and methods. The record discloses that a great deal of policy guidance was directed to the formulation of CIARDS and to its continued operation. It covers a group of employees whose service is unique. Congress best described such service by defining it as being clearly distinguishable from normal Government employment. The System is principally a management tool to ensure that the cadre covered by it is maintained at levels of vigor, resiliency and adaptability best able to pursue the nation's foreign intelligence missions. The awarding of CIARDS recognizes the total context of career service, not just specific work duties. Lastly, CIARDS as a management tool permits the Agency to carry out securely those retirement functions which are so sensitive that they must fall within the Director's statutory authority for the protection of intelligence sources and methods.

Your report includes the Agency's Voluntary Investment Plan (VIP) in the treatment of retirement systems. Although technically the VIP is a pension plan (approved by the Internal Revenue Service), it is not practically a retirement system. No retirements of any type are effected under the VIP. There are no Agency contributions to the Plan and there is no Government funding involved. VIP is simply only a vehicle for enabling Agency employees voluntarily to invest over the long term with the prospect of building a supplement to their eventual retirement annuities. Such employees actually will retire under CIARDS or the Civil Service System. We suggest, therefore, that you may wish to eliminate the VIP from your report.

We should like now to address certain specific errors in your report:

--The chart showing Congressional responsibilities for Federal retirement systems should reflect that the House Permanent Select Committee on Intelligence has (in the House) exclusive oversight of CIARDS. The presentation in regard to the Senate is accurate.

--On page 156 is the statement that "CIA officials agreed that any conclusions reached on The Foreign Service retirement system would generally be applicable to the CIA system." We know of no basis for such statement and wish to disavow it.

--Page 17 of Appendix II needs to be revised.

(a) We suggest a preamble that establishes that to be eligible for retirement under CIARDS, an employee must have completed at least 5 years of service of the type described by the two statutory criteria; viz, hazardous to health and life and clearly distinguishable from normal Government employment.

(b) Change "optional" retirement to "voluntary" retirement.

(c) Under mandatory retirement eliminate the mention of 5 years service; the suggested preamble will cover that fact.

(d) Eliminate "Discontinued Service;" we do not have that in CIARDS.

(e) Add a heading "Involuntary Retirement" showing eligibility at age 50 with 20 years service or at any age with 25 years service.

(f) Under "Deferred Annuity" eliminate reference to

--Page 11 of Appendix III (Disability Retirement). The last sentence should specify the "difference between the employee's age at time of retirement and age 60" (our emphasis) rather than "age 20" as shown.

--Chapter 3 of your report (Management of Federal Retirement Programs) ~~purports to~~ show the costs and man-years necessary to administer CIARDS and specifies a total of \$286,000 and 14 man years. Our letter to Mr. Shelton in March 1977 specified <sup>that</sup> the number of man years devoted exclusively to CIARDS was 9 and the cost was \$159,602 for their salaries, \$15,000 for actuarial support and \$10,000 for computer support, for a total dollar figure of \$194,602. Our letter disclosed that although 5 other man-years were devoted to CIARDS, this commitment was not exclusively the result of the existence of CIARDS but was, instead, a function of the total number of personnel in CIA and not a function of CIARDS. We stated that, "In other words, if the Agency did not have CIARDS and all employees were under Civil Service, the part-time effort these employees (i.e., the 5) now direct toward CIARDS retirement matters would be devoted to Civil Service retirement matters." We believe, therefore, that this section of your report should be revised to reflect the CIARDS necessitates a total cost of \$194,602 and the commitment of 9 man-years.

~~While we differ with your proposed report in the areas cited above,~~ we are in general agreement on some other of your proposals. Thus, we would concur in standard methods of financing and funding and standard methodology for actuarial valuations.

~~Our principal concern, however, is that~~ CIARDS be continued as a separate retirement system, administered from within CIA, for the reasons

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~~given in this letter~~ If your report is to go forward containing your proposal for the elimination of all separate systems, we would expect that the section dealing with CIARDS would represent our unequivocal stand for maintaining a separate system and reflect our reasons for such stand.

I believe it might be useful if representatives of my staff could visit with your representatives for a full discussion of our views on CIARDS.

Yours sincerely,

STANSFIELD TURNER

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